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IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-1329

EDWARD H. HYNES, *et al.*,

Appellants,

—v.—

THE MAYOR AND COUNCIL OF THE BOROUGH OF ORADELL, *et al.*,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF NEW JERSEY

JURISDICTIONAL STATEMENT

TAYLOR, FERENCZ & SIMON
Attorneys for Appellants
Office & P. O. Address
60 East 42nd Street
Borough of Manhattan
City of New York 10017

Of Counsel:

TELFORD TAYLOR
KENNETH SIMON

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JURISDICTIONAL STATEMENT

Appellants appeal from the final judgment of the Supreme Court of the State of New Jersey, entered on January 24, 1975, reversing judgments of the Appellate Division of the Superior Court of New Jersey and the Superior Court of New Jersey, and submit this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal, and that a substantial question is presented.

Opinions Below

The opinion of the Supreme Court of the State of New Jersey is reported at 66 N.J. 376 (1975) and is attached hereto as Appendix A1-18. A related case decided the same day by the New Jersey Supreme Court, *Borough of Collingswood* v. *Donald Ringgold,* is reported at 66 N.J. 350 (1975) and is attached hereto as Appendix A19-45. The opinion of the Appellate Division of the Superior Court of New Jersey is not yet officially reported, and is attached hereto as Appendix B. The decision and judgment of the Superior Court of New Jersey is not reported, and is attached hereto as Appendix C.

Jurisdiction

This action was commenced in the Superior Court of the State of New Jersey, Bergen County, against the Borough of Oradell, New Jersey, for a judgment declaring unconstitutional under the First, Fourteenth and Fifteenth Amendments to the Constitution of the United States, an ordinance enacted by the Borough, and enjoining enforcement of that ordinance. Upon motion for a preliminary injunction, a hearing was held and the Superior Court (trial court) ruled that the ordinance was void because violative of the First Amendment, as well as because it was incomplete under requirements of New Jersey law, and entered judgment in favor of the plaintiffs (App. C4). The Appellate Division of the Superior Court affirmed the judgment of the trial court. On appeal to the Supreme Court of New Jersey, the ordinance was held valid under the First Amendment and all other provisions of the United States Constitution. The

judgments below were reversed, with the instruction that judgment for the defendants be entered. Two members of the Court dissented.

The judgment of the Supreme Court of New Jersey was entered on January 24, 1975, and Notice of Appeal was filed in that Court on April 16, 1975 (Appendix D). The jurisdiction of the United States Supreme Court to review this decision on appeal is conferred by Title 28 United States Code, Section 1257(2). The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on appeal in this case: *King Mfg. Co.* v. *Augusta,* 277 U.S. 100 (1928); *Jamison* v. *Texas,* 318 U.S. 413 (1943); *Independent Warehouses, Inc.* v. *Scheele,* 331 U.S. 70 (1947); *Poulos* v. *New Hampshire,* 345 U.S. 395 (1953); *Coates* v. *Cincinnati,* 402 U.S. 611 (1971).

Statute Involved

Borough of Oradell Ordinance No. 598-A provides:

> An Ordinance to Amend and Supplement an Ordinance Entitled "An Ordinance to Regulate and Prohibit Canvassing and Soliciting in the Borough of Oradell and Establish Fees and Provide Penalties for the Violation Thereof."
>
> WHEREAS, The Borough of Oradell is primarily a one family residential town whose citizens are employed elsewhere, resulting in the wives of the wage earner being left alone during the day; and
>
> WHEREAS, because of the geographical location of most of the homes it is impossible to police all areas at the same time, resulting in a number of break and entries and larceny in the home; and

WHEREAS, it is in the public interest and the public safety that persons not be permitted to call from house to house on the pretext of soliciting votes for a designated candidate or signatures for a nominating petition, or to solicit for a recognized charitable cause or borough activity, without such persons being first identified by the Police Department; and

WHEREAS, the Mayor and Borough Council of The Borough of Oradell feel that it is in the public interest and for the protection of The Borough of Oradell that such persons be required to notify the Police Department for the purpose of identification.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of The Borough of Oradell, in the County of Bergen and State of New Jersey, that an ordinance entitled "An ordinance to regulate and prohibit canvassing and soliciting in The Borough of Oradell and establish fees and provide penalties for the violation thereof" be amended and supplemented as follows:

(1) That Section 1 be amended and supplemented by the addition of Section 1 (a) to be entitled "Exceptions to Permit" as hereinafter set forth:

SECTION 1 (a): EXCEPTIONS TO PERMIT

Any person desiring to canvass, solicit or call from house to house in the Borough for a recognized charitable cause, or any person desiring to canvass, solicit or call from house to house for a Federal, State, County or Municipal political campaign or cause, shall be required to notify the Police Department, in writing, for identification only. Said notification shall be good for

the duration of the campaign or cause. The provisions of this section shall also apply to representatives of Borough Civic Groups and Organizations and any veterans honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States. All other Sections of Ordinance No. 573, with the exception of the penalty clause designated as Section 7, shall not be applicable to such persons or groups as designated herein.

(2) All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

(3) This ordinance shall take effect after final passage and publication as required by law.

This is to Certify that the foregoing ordinance was finally passed and adopted at the regular meeting of the Council of The Borough of Oradell, N. J. on July 16, 1974, and that the same was approved by the Mayor on July 16th, 1974.

STANLEY J. KUFEL
Borough Clerk

The Sunday Post (R-5028)
Fee: $30.00
July 21, 1974

Questions Presented

Ordinance No. 598-A of The Borough of Oradell set forth above, requires that "any person desiring to canvass, solicit or call from house to house for a Federal, State, County or Municipal political campaign or cause, shall be required to notify the Police Department, in writing, for identification only." Criminal penalties are provided for violation of this ordinance. The Supreme Court of New Jersey has sustained the validity of the ordinance under the First Amendment and as against "any of the other rights of the plaintiffs herein." The plaintiffs include a member of The General Assembly of the State of New Jersey representing the Borough of Oradell, and four registered voters in and residents of Oradell.*

The questions presented are:

(1) Whether the Ordinance, on its face or as applied to the plaintiffs herein, is invalid under the First Amendment to the Constitution as made applicable to the States by the Fourteenth Amendment.

(2) Whether the Ordinance, on its face or as applied to the plaintiffs herein, is invalid under the due process or privileges and immunities clauses of the Fourteenth Amendment.

Statement of the Case

Appellant, Edward H. Hynes was first elected to the General Assembly of New Jersey in November 1971 as the representative of Assembly District 13-E. Due to reapportionment, the lines of Assemblyman Hynes' district

* Plaintiff Suzan DePrima no longer resides, nor is eligible to vote, in Oradell, New Jersey.

were redrawn in 1973 to include the Borough of Oradell, and the district was renumbered 38.

In March of 1973 Assemblyman Hynes, running for the Democratic nomination and working with limited financial resources (App. F2), went to the Borough of Oradell to campaign house-to-house for re-election. On that occasion, he was stopped by a member of the Oradell police force and ordered to leave the Borough. On April 3, 1973, the Borough of Oradell adopted Ordinance No. 598 (App. E5) as an amendment to its Canvassing and Soliciting Ordinance No. 573 (App. E1-4). By the terms of the amended ordinance, candidates for public office and participants in political and other causes were required to register with the Oradell Police Department before they could conduct house-to-house canvassing, soliciting or calling.

Appellants commenced this action in the Superior Court of Bergen County on October 15, 1973, to have Ordinance No. 598 declared unconstitutional because violative of rights guaranteed to them by the First, Fourteenth and Fifteenth Amendments to the Constitution, and for permanent injunctive relief from enforcement of the Ordinance (Verified Complaint, App. F). Appellant Hynes alleged that the purpose of his house-to-house canvassing was to inform Oradell voters of his candidacy and other issues of public importance, and that the Ordinance abridged his First Amendment right freely to communicate this information (App. F1-4). Appellants Stier, Barone, Kougasian and DePrima alleged that their First Amendment rights to receive such communications from candidates for political office, and to exchange views with such candidates and other residents of the Borough regarding matters of public importance, were unconstitutionally abridged by the Ordinance (App. F4-9). In their Answer, the defendants denied

that the Ordinance was unconstitutional and in an affidavit filed October 25, 1973, George Brugnoli, Chief of Police of the Borough of Oradell contended (App. G4-5) that the Ordinance was necessary to prevent crime, and that: "... knowing who is in the municipality and for what purpose is an important part of law enforcement."

Following a hearing on the motion for a preliminary injunction, the Superior Court on October 18, 1974, held *inter alia* that the Ordinance was invalid for lack of a penalty clause, unconstitutionally vague and overbroad, and violative of the First Amendment (App. C).[1] Its judgment was affirmed by the Superior Court, Appellate Division on April 15, 1973, on the ground that Ordinance No. 598 was invalid for lack of a penalty provision. The Appellate Division found it unnecessary to pass upon "the important issues" of constitutionality.

The Borough of Oradell appealed to the Supreme Court of New Jersey and, while this appeal was pending, the Borough on July 16, 1974 again amended Ordinance No. 573 by enacting Ordinance No. 598-A to replace No. 598.[2]

The New Jersey Supreme Court held that Ordinance No. 598-A, as the version of the ordinance in question extant at the time of appellate review, was the version of the ordinance before it for purposes of determining the case (App. A-4). Thus reaching the federal constitutional ques-

[1] The transcript of the trial judge's oral decision appears to be technically flawed.

[2] Ordinance No. 598-A provides a penalty for its violation. The reference in Ordinance No. 598-A to "the penalty clause designated as Section 7" is in error, as the penalty clause of Ordinance No. 573 is in fact Section 6 (App. E-4). However, the Supreme Court of New Jersey ruled that the defect in Ordinance No. 598 "was remedied by the adoption of another amendatory ordinance, 598-A, providing for a penalty on violation. . . ." (App. A-4.)

tions, the Court, with two dissents, reversed the decisions below and held that Ordinance No. 598-A "was not a constitutionally cognizable interference with a First Amendment right nor with any of the other rights of plaintiffs herein." Such governmental impingements upon speech and assembly as were effected by the ordinance were "reasonable," and the Court viewed reasonableness as the proper test of the Ordinance's constitutionality because the appellants sought to exercise their First Amendment rights "house-to-house" rather than "in public areas" (App. A5).

This Court Has Jurisdiction of This Appeal

The Supreme Court of New Jersey is the highest court of the State and its judgment, directing the lower court to enter judgment in favor of the defendants (App. A7), is final. *Board of Commissioners* v. *Lucas*, 93 U.S. 108. Ordinance No. 598-A of the Borough of Oradell is "a statute of any state" within the meaning of 28 U.S.C. 1257 (2). *Williams* v. *Bruffy*, 96 U.S. 176, 183; *King Mfg. Co.* v. *City Council of Augusta*, 277 U.S. 100; *Independent Warehouses* v. *Scheele*, 331 U.S. 70, 79; *Poulos* v. *New Hampshire*, 345 U.S. 395, 402; *Jamison* v. *Texas*, 318 U.S. 413; *Coates* v. *Cincinnati*, 402 U.S. 611. The complaint explicitly draws in question the validity of the Ordinance under the First, Fourteenth and Fifteenth Amendments to the United States Constitution (App. F3, 5, 6, 8 and 9). The Supreme Court of New Jersey explicitly decided in favor of the validity of the Ordinance under the First Amendment and as against "any of the other rights" of the plaintiffs (App. A7).

The Federal Questions Are Substantial

Plaintiffs' federal constitutional challenge to the Oradell Ordinance prevailed in the trial court, and the intermediate appellate court, while disposing of the case on other grounds, described the constitutional issues as "important" (App. B3). Two members of the New Jersey Supreme Court concluded that the Ordinance was constitutionally invalid (App. A7-18). As the numerous cases cited in the New Jersey court's opinions in this case and the related *Collingswood* case decided the same day (App. A19-45) demonstrate, the constitutional problems raised by ordinances of this general type are neither occasional nor of minor importance.

Appellants contend that the Ordinance serves no State interest sufficient to justify the chilling effect which its notification requirement will have on freedom of speech and assembly within and beyond the borders of the Borough of Oradell. We further contend that the Ordinance is void under the First Amendment because of overbreadth, and under the First Amendment and the due process clause for vagueness. Finally, we contend that the provisions of the Ordinance, insofar as they affect the conduct of campaigns for elective public office, also violate the privileges and immunities clause of the Fourteenth Amendment.

1. *Abridgement of Freedom of Speech and Assembly.* Oradell's Ordinance No. 598-A requires written notice for identification—tantamount to pre-registration—for the very sorts of speech and assembly which are the core of the freedoms protected by the First Amendment. A political candidate's freedom to communicate, and to have his supporters communicate, his views on public issues to the voters is crucial to the continued functioning of the Constitutional plan of government. *New York Times* v. *Sullivan,* 376 U.S. 254, 281; *Bond* v. *Floyd,* 385 U.S. 116, 135-37. The right to communicate necessarily includes the right to do so face-to-face. *Kleindienst* v. *Mandel,* 418 U.S. 753, 762-65; *Pell* v. *Procunier,* —— U.S. ——, 41 L. Ed. 2d 495. The voters and, indeed, all citizens, have the correlative First Amendment right to receive the candidate's views and discuss them with him and among themselves. *Kleindienst* v. *Mandel, supra; Stanley* v. *Georgia,* 394 U.S. 557, 564; *Thomas* v. *Collins,* 323 U.S. 516 at 533-34.

The New Jersey court made much of their belief that "no lesser form of intrusion on their right of free speech, other than absolutely no intrusion, than the identification device here" could be conceived (App. A7). But as Justice Pashman pointed out in his dissenting opinion (App. A11-14), the "notification device" is far less innocuous than at first appears.

Despite the limiting phrase "for identification only" in the ordinance, its requirement will indubitably and substantially "chill" freedom of communication, both among the residents of Oradell and between them and persons coming into the community. The existence of the ordinance, and doubt with respect to its reach, are bound to discourage such exchange of views, especially with the possibilities of oppressive or discriminatory enforcement to which Justice Pashman alludes (App. A11-12).

In Oradell, as elsewhere, some candidates and causes are popular and others are not. This Court paid heed to the social values of anonymity in *Talley* v. *California,* 362 U.S.

60, pointing (362 U.S. at 65) to earlier cases in which public identification of "members of groups engaged in the dissemination of ideas" was also held violative of the First Amendment. *Bates* v. *Little Rock*, 361 U.S. 516; *National Assn. for Advancement of Colored People* v. *Alabama*, 357 U.S. 449; *cf. Lamont* v. *Postmaster General*, 381 U.S. 301, 307; see also *Strasser* v. *Doorley*, 432 F.2d 567, 569 (C.A. 1st 1970).

In *Thomas* v. *Collins*, 323 U.S. 516, the registration requirement covered more information than the New Jersey ordinance narrowly construed, appears to call for. But the Texas statute considered in that case was defended on the same ground as in the present case: that it was "merely a previous identification requirement" giving the state officials "only 'ministerial not discretionary' authority" (323 U.S. at 538). But this Court, while recognizing that such requirements might be justifiable where solicitation of funds or subscriptions was concerned, held to the contrary where speech alone was involved, saying (323 U.S. at 540):

> If the exercise of the rights of free speech and free assembly cannot be made a crime, we do not think this can be accomplished by the device of requiring previous registration as a condition for exercising them and making such a condition the foundation for restraining in advance their exercise and for imposing a penalty for violating such a restraining order. So long as no more is involved than exercise of the rights of free speech and free assembly, it is immune to such a restriction. If one who solicits support for the cause of labor may be required to register as a condition to the exercise of his right to make a public speech, so may

> he who seeks to rally support for any social, business, religious or political cause. We think a requirement that one must register before he undertakes to make a public speech to enlist support for a lawful movement is quite incompatible with the requirements of the First Amendment.

The New Jersey court sought (App. A5) to distinguish *Thomas* v. *Collins* on the ground that house-to-house interchange as opposed to speech "in public areas" is "conduct which amounts to more than the right of free discussion comprehends."[3] The State interest invoked to justify the identification requirement is "the apprehension of unwarranted intrusion" (App. A6-7), which is certainly a substantial social value. But mere recital of a substantial, or even compelling, State interest is not enough to justify First Amendment restrictions. As Mr. Justice Harlan, concurring in *Talley* v. *California*, *supra*, at 66-67, observed:

> Here the State says that this ordinance is aimed at the prevention of "fraud, deceit, false advertising, negligent use of words, obscenity, and libel," in that it will aid in the detection of those responsible for spreading material of that character. But the ordinance is not so limited, and I think it will not do for the State simply to say that the circulation of all anonymous handbills must be suppressed in order to identify the distributors of those that may be of an obnoxious character. In the absence of a more substantial show-

[3] The last quoted phrase from the opinion in *Thomas* v. *Collins* referred (323 U.S. at 540) not to house-to-house discussion but to "the collection of funds or securing subscriptions"—activities in no way involved in the present case.

ing as to Los Angeles' actual experience with the distribution of obnoxious handbills, such a generality is for me too remote to furnish a constitionally acceptable justification to the deterrent effect on free speech which this all-embracing ordinance is likely to have.

Bare assertions of governmental interest do not justify intrusions on paramount constitutional rights. As this Court stated in *Bates* v. *Little Rock, supra* at 525:

> . . . governmental action does not automatically become reasonably related to the achievement of a legitimate and substantial governmental purpose by mere assertion in the preamble of an ordinance. When it is shown that state action threatens significantly to impinge upon constitutionally protected freedom it becomes the duty of this Court to determine whether the action bears a reasonable relationship to the achievement of the governmental purpose asserted as its justification.

Such a "reasonable relationship" is lacking here. The reasoning apparently is that by requiring candidates for public office and their supporters, and supporters of other public causes, to register with its Police Department, the Borough of Oradell will somehow be better able to prevent crime by determining who is on its streets and at its front doors and for what purposes. But it is difficult if not impossible to see how a written identification, probably sent to the police by mail (App. A5) can serve any useful police purpose.

The identification will not tell the police when or where the registering person will be calling house to house. There appears to be nothing to prevent those on criminal

mischief bent from sending in their names as prospective canvassers or callers for a worthy cause, in which case the house-holder's telephonic check with the police is more likely to lull than alert him. As Justice Hall, dissenting in the present case, concluded (App. A7-8), the requirement has no reasonable relation to the object sought to be attained, and consequently "exceeds the public need and substantially affects desirable conduct not sufficiently related to the claimed evil."

In assessing the extent of the Ordinance's impingement on First Amendment guarantees, it should be borne in mind that the Ordinance is not limited to non-residents of Oradell who come into the Borough for one of the specified purposes. Police Chief Brugnoli's affidavit (App. G4-5) in support of the defendants' answer is addressed to political candidates who enter the Borough, but, of course, the scope of the Ordinance is far broader. The breadth of the Ordinance is an intrinsic and fatal defect, as we undertake to show in the next following part of this Statement.

2. *Overbreadth.* Oradell Ordinance No. 598-A provides that ". . . any person desiring to canvass, solicit or call from house to house" for the specified purposes shall give the required notification. The New Jersey court treated it as directed against "strangers filtering through the community" (App. A6 and 26), but of course the Ordinance is not so limited, as it applies to "any person," without qualification or limitation. This comprehends not only "strangers" and other non-residents, but residents of the Borough as well.

Even if the Ordinance might lawfully be applied to a non-resident political candidate such as appellant Hynes (which, of course, we contest), the Ordinance must be invalidated in its application to the other appellants, and, indeed, held invalid on its face as well. The sweep of the Ordinance is unconstitutional because it is so broad as to cover speech plainly covered by the First Amendment.

It is now well settled that appellants have "standing to raise an over-breadth challenge." *Grayned* v. *City of Rockford,* 408 U.S. 104, 114-15. Furthermore, the complaint in behalf of appellants Stier, Barone, Kougasian and DePrima explicitly embrace rights additional to those asserted by appellant Hynes.

The New Jersey court, although it construed the Ordinance in several particulars, did not undertake to give further definition to the phrase "canvass, solicit or call from house to house." Giving the Ordinance the benefit of a narrower interpretation than the words denote, the phrase "call from house to house" might be treated as inapplicable unless there is house to house calling on some kind of systematic basis.

Even so limited, however, it is clear that the Ordinance would apply to any Oradell resident, who, becoming interested in some "political campaign or cause" decides to call at all the houses in his block to inform or persuade his or her neighbors.[4] Such a deep intrusion on community discussion could hardly be justified short of martial law conditions.

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[4] Criticism of precisely this feature of the Ordinance is voiced in paragraph 3 of appellant Hugh Stier's complaint (App. F5).

If defendants suggest that the Ordinance should be construed as not covering such activity, it may be replied that such a departure from the wording would be to give the Ordinance, in Chief Justice Taft's phrase, "a nose of wax to be changed from that which the plain language imports." *Yu Cong Eng* v. *Trinidad,* 271 U.S. 500, 518. Furthermore, there would remain the question where to draw the line regarding the Ordinance's application to residents. Pursuit of this inquiry would reveal, in this additional respect, the fatal vagueness of the Ordinance.

3. *Vagueness.* The New Jersey court rightly noted (App. A4-5) that Ordinance No. 598-A requires no fee, provides for no card or license, and reposes no official discretion to deny permission. The court further noted that its requirements "may be satisfied in writing, suggesting that resort may be had to the mails," and that only one notification is required "for each campaign." The court declared itself impressed with the clarity of the Ordinance with respect to the activities—"door to door activities of charitable solicitors, political campaigners and advocates in behalf of political causes"—covered by the law.

On this basis, the New Jersey court described "the only requirement of the Ordinance" as "one of simple identification" (App. A5). But that phrase is far from self-explanatory and the court did not probe its meaning. We suggest that the language of the Ordinance—"notify the Police Department, in writing, for identification only"—is fatally vague. The constitutional infirmity arises both from the sensitivity of the First Amendment freedoms to imprecise restrictions, and also from the requirements of the due process clause with respect to fair warning of the metes and bounds of the criminal law. *Grayned* v. *City of*

Rockford, supra at 108-09; *Coates* v. *Cincinnati,* 402 U.S. 611.

Since the Ordinance itself is silent with respect to the requisites of "notify" and "identification" (other than that the notification be "in writing"), it must be presumed that the Police Department is given discretion to determine what sort of "notification" is sufficient for "identification." There are no standards to guide or govern this discretion except the direction that a single notification shall be sufficient "for the duration of the campaign or cause." That is plainly insufficient to satisfy constitutional standards in a First Amendment context. *Lovell* v. *City of Griffin,* 303 U.S. 444; *Saia* v. *New York,* 334 U.S. 558; *Kunz* v. *New York,* 340 U.S. 290. The Ordinance gives the Police Chief an impermissible range of discretion "with the attendant dangers of arbitrary and discriminatory application," and by its imprecision "operates to inhibit the exercise" of First Amendment freedoms. *Grayned* v. *City of Rockford, supra,* at 109; see also *Coates* v. *Cincinnati, supra.*

The dangerous breadth of the discretion conferred is patent. Is the notifier's name alone sufficient? If so, what earthly use will his letter be to the police?[5] Must his organizational affiliations be specified? Must he declare what "campaign or cause" he is supporting or opposing? All this and more is left open, and it would appear plain that such vagueness is fatal to the criminal penalty provisions (imprisonment for up to 90 days and fine up to five hundred dollars) of the Ordinance (App. E4). *Lanzetta* v. *New*

[5] Chief Brugnoli's affidavit (App. G4-5) states that neither photograph nor fingerprints are required, but of course this declaration is not binding for the future on him or his successors. Brugnoli's further statement that the notifier need only "let us know who he is" adds less than nothing by way of clarification.

Jersey, 306 U.S. 451; *United States* v. *Cohen Grocery Co.,* 255 U.S. 81.

4. *Violation of the Privileges and Immunities Clause of the Fourteenth Amendment.* It is, of course, settled that the privileges and immunities clause of the Fourteenth Amendment protects only those rights "which owe their existence to the Federal Government, its National character, its Constitution, or its laws." *Slaughter-House Cases,* 16 Wall. 36, 79 (1873). By now those rights may probably be regarded as limited to "interests growing out of the relation between the citizens and the national government, created by the Constitution and federal laws." *Colgate* v. *Harvey,* 296 U.S. 404, 444 (Stone, J. dissenting).

The rights asserted by these appellants are of that description. The Ordinance applies to "Federal" as well as state and local campaigns and causes. Certainly the right to meet and discuss national candidates and issues stems from the Constitution and laws of the United States, and it may well also be that these rights in state and local contexts are so fundamental to a republican form of government that they should be accorded the same dignity.

Over a century ago this Court specified as among the guaranteed privileges and immunities the right to share in federal offices and participate in administering federal functions. *Slaughter-House Cases, supra,* at 79-81, quoting the opinion in *Crandall* v. *Nevada,* 6 Wall. 35, 45 (1868).[6] It

[6] See also *Hague* v. *C.I.O.,* 307 U.S. 496, in which Chief Justice Hughes and Justices Roberts and Black expressed the view that the guaranteed privileges and immunities included the right to assemble and discuss the National Labor Relations Act. The Chief Justice, however, agreed with Justices Stone and Reed that the question had not been properly raised. Justices McReynolds and Butler did not reach the question, and Justices Frankfurter and Douglas took no part in the decision.

is true, of course, that the Oradell Ordinance is not an absolute barrier to the exercise of voting and associated rights, but no more was the travel tax outlawed in the *Crandall* case. The scope of the rights to vote and stand for office necessarily comprehends the activities discouraged and the discussions chilled by the Ordinance challenged on this appeal.

We believe that the questions presented by this appeal are substantial and that they are of public importance.

Respectfully submitted,

TAYLOR, FERENCZ & SIMON
Counsel for Appellants
Office & P. O. Address
60 East 42nd Street
Borough of Manhattan
City of New York 10017

Of Counsel:

TELFORD TAYLOR
KENNETH SIMON